

The complaint

Mr C's complaint is about a joint mortgage he has with Clydesdale Bank Plc trading as Virgin Money. He is unhappy that despite a breathing space being applied to the mortgage, he received a letter about a court date, which had a detrimental effect on his already poor mental health situation.

What happened

Mr C and another party took out a joint mortgage in 2007 on a repayment basis over 25 years. They have suffered financial difficulties and by 2024 the mortgage was in arrears and Clydesdale had started legal proceedings to repossess the property.

On 15 July 2024 there was a hearing regarding the repossession. Clydesdale has informed us that Mr C told the court that he was already in a "Breathing Space" and had been for in excess of three weeks. The hearing was adjourned so that Mr C could provide evidence of the breathing space to the court. He was given seven days to do so, and if he did not, Clydesdale could request a new hearing. Mr C didn't provide the court with evidence there was a breathing space in place within those seven days, and it appears that Clydesdale's solicitors made the request to the court for a new hearing to be scheduled at that point.

In August 2024, Clydesdale was informed by the Debt Respite Scheme that due to Mr C's mental health situation, a "Breathing Space" under the government scheme had been put in place with effect from 13 August 2024. Clydesdale wrote to Mr C on 20 August 2024 acknowledging the breathing space.

The government website detailing how the breathing space scheme works, sets out the following:

Debt Respite (Breathing Space) Scheme. Creditors' responsibilities to the court.

Tell the court about the breathing space

If a claim has already been issued, or where enforcement proceedings have begun, you must inform the court in writing of a breathing space having started. ...

...

When informing the court, you must:

- *explain whether the debt is subject to a standard or mental health breathing space*
- *provide the date on which the breathing space started, where possible*
- *include a copy of the notification from the Insolvency Service, where possible*

It does not appear that the court was given information about the breathing space by any of the parties involved. As such, it arranged a new hearing date of 21 October 2024 and wrote to both Mr C and Clydesdale at the end of August 2024 to inform them.

Mr C complained to Clydesdale on 5 September 2024 about having been informed of a new court date, despite him being in a breathing space.

On 9 October 2024 Clydesdale wrote to Mr C with a quarterly arrears statement. The covering letter set out the potential consequences of the arrears and asked Mr C to call it.

Clydesdale informed the court on 17 October 2024 that it wanted the October hearing adjourned, with liberty to restore action in the future.

Clydesdale responded to the complaint in a letter of 14 November 2024. It explained that the letter Mr C had received had not been sent by it, but rather it was a letter from the court following on from a hearing on 15 July 2024. Clydesdale confirmed that it had informed its solicitors about the breathing space, but it was for the Debt Respite Scheme to have told the courts. As such, Clydesdale didn't consider that it was responsible for the upset the letter had caused Mr C. However, Clydesdale also confirmed that it had sent Mr C a letter on 9 October 2024, which it should not have done. It apologised for any upset this had caused. In addition, Clydesdale apologised for the amount of time it had taken to respond to Mr C's complaint. In order to compensate Mr C for the distress and inconvenience it had caused him, Clydesdale offered £250.

Mr C was not satisfied with the response he received and referred the complaint to this Service. When he did, he told us that he believes that it was Clydesdale's responsibility to inform the court about the breathing space and so it is responsible for him receiving the letter. Mr C also explained that when he received the October 2024 hearing letter, he had felt the need to speak to Clydesdale and so had to miss appointments that would usually have given him support for his mental health situation.

One of our Investigators considered the complaint. Clydesdale wrote to us and corrected a mistake contained in the final response letter – it explained that it had incorrectly said the October 2024 letter shouldn't have been sent. It was the quarterly arrears statement that Clydesdale was required by the Regulator to send. Ultimately, the Investigator concluded that given the reason for the breathing space, Clydesdale should have taken more care when it sent the quarterly statement. He recommended that it increase the compensation payment from £250 to £350.

Mr C didn't accept the Investigator's conclusions. He commented that he was surprised that we had said that Clydesdale was not responsible for the actions of the solicitors it appointed. He reiterated that he believed Clydesdale had been responsible for telling the court about the breathing space.

Clydesdale accepted the Investigator's conclusions.

The Investigator considered what Mr C had said, but it didn't change his conclusions. As such, Mr C asked that the complaint be referred to an Ombudsman.

I issued a provisional decision on 12 June 2025, in which I set out my conclusions and reasons for reaching them. Below is an excerpt.

'I have firstly considered the matter of the new court date being arranged for October 2024. Clydesdale has correctly pointed out that the letter that caused Mr C so much distress was not sent by it, but rather by the courts. However, it has also said that it was not responsible for informing the courts that a breathing space had been put in place – as detailed above, that is not the case.'

It appears that, when Mr C didn't provide the evidence of the breathing space within the timescale the court set in July 2024, Clydesdale's solicitors asked for a new hearing to be scheduled. As long as this happened before the breathing space was granted, which seems likely given when the new date was set, there was nothing wrong with this happening. However, Clydesdale or its solicitors should have told the court about the breathing space and its type as soon as it received the notification. It was aware of the breathing space a couple of weeks before the court set a new hearing date, and I am satisfied that had the court been told in a timely manner about the breathing space and its type, a new hearing date would not have been scheduled at that time. As such, I consider that had Clydesdale done what it should have in the middle of August 2024, Mr C would not have received the letter from the court that upset him so much and Clydesdale is responsible for that upset.

Added to that upset and worry, was Clydesdale's letter in October 2024. Clydesdale is correct that it was required by the Regulator to keep Mr C updated about his mortgage and arrears at least quarterly. The statement that was enclosed with the letter fulfilled that requirement. However, given the information Clydesdale had at that time about Mr C's situation, I don't consider the covering letter was appropriate. I am aware that the letter is likely a standard letter that is sent out with all arrears statements, but that doesn't absolve Clydesdale of its responsibility towards a vulnerable consumer. I consider that Clydesdale should have either altered the message and language of the letter to something more appropriate, or sent it with its own covering letter that would mitigate the concerns the standard letter would likely cause Mr C.

In its final response letter Clydesdale acknowledged that it had taken too long for it to provide Mr C with a response to his complaint. While a financial business has a window of eight weeks to address a complaint under the Regulator's rules, there are times when a business should prioritise dealing with complaints. I would agree with Clydesdale that given Mr C's circumstances it would have been appropriate for it to have prioritised getting a response to Mr C.

Clydesdale offered Mr C compensation of £250 for the distress the errors it acknowledged had caused. I have found that Clydesdale also made an error regarding the legal action it had initiated before the breathing space was put in place. Mr C has explained the effect the letters he received had on him and it is clear that they caused him a lot of upset and worry. In light of that, I consider that Clydesdale should pay Mr C compensation of £750.'

Mr C said that he accepted my conclusion about Clydesdale having done something wrong, but he did not think I'd awarded enough compensation. This was because he said he had spent hundreds of hours trying to rectify the situation.

Clydesdale confirmed that it had incorrectly said it was not responsible for notifying the court about the breathing space and apologised for its error. It said that it had asked for a new court date before Mr C had provided evidence of the breathing space. As such, it agreed to pay £750 compensation (including the amount it had already offered).

What I've decided – and why

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

I have noted that Mr C doesn't think the compensation is sufficient, given he has had to spend time sorting the matter out. I have reviewed the file again in its entirety and I have

revisited my provisional decision. Having done so, I am still satisfied that £750 is the appropriate amount of compensation in the circumstances of this case.

My final decision

My final decision is that I uphold this complaint. I require Clydesdale Bank Plc to pay Mr C £750 compensation in full and final settlement of the complaint.

Under the rules of the Financial Ombudsman Service, I am required to ask Mr C to accept or reject my decision before 7 August 2025.

Derry Baxter
Ombudsman